

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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RALPH S. JANVEY, IN HIS CAPACITY :
AS COURT-APPOINTED RECEIVER FOR :
THE STANFORD RECEIVERSHIP :
ESTATE, AND THE OFFICIAL :
STANFORD INVESTORS COMMITTEE, :
:
Plaintiffs, : Civil Action No. 3:13-cv-00477-N
- against - : Hon. David C. Godbey
:
PROSKAUER ROSE, LLP, :
CHADBOURNE & PARKE, LLP, AND :
THOMAS V. SJOBLOM, :
:
Defendants. :
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RULE 41 STIPULATION AND ORDER OF DISMISSAL
WITH PREJUDICE OF COUNTS 1, 4, 5, 6, AND 7 OF THE COMPLAINT

WHEREAS, Ralph S. Janvey (the “Receiver”) was appointed by the U.S. District Court for the Northern District of Texas to serve as the Receiver for the assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities) of Stanford International Bank, Ltd., Stanford Financial Group Company, Stanford Group Company, Robert Allen Stanford, James M. Davis, Laura Pendergest-Holt, and Stanford Financial Group, and all entities that the foregoing persons and entities own or control (collectively, the “Stanford Receivership Estate”);

WHEREAS, on January 31, 2013, the Receiver, in his official capacity as Receiver for the Stanford Receivership Estate, and the Official Stanford Investors Committee (“OSIC,” and, collectively with the Receiver, “Plaintiffs”) filed the Original

Complaint, Dkt. 1 (the “Complaint”) in the above-captioned action against Defendants Proskauer Rose LLP (“Proskauer”), Chadbourne & Parke LLP (“Chadbourne”), and Thomas V. Sjoblom (“Sjoblom,” and, together with Proskauer and Chadbourne, “Defendants”);

WHEREAS, Plaintiffs asserted in paragraphs 256 through 268 of the Complaint claims against Defendants for negligence (Count 1), aiding, abetting, or participation in breaches of fiduciary duty (Count 2), aiding, abetting, or participation in fraudulent scheme (Count 3), aiding, abetting, or participation in fraudulent transfers (Count 4), aiding, abetting, or participation in conversion (Count 5), civil conspiracy (Count 6), and negligent retention/supervision (Count 7);

WHEREAS, on October 3, 2014, Defendants moved to dismiss the Complaint in its entirety on several grounds, including that Plaintiffs’ claims were barred by Texas’s two-year statutes of limitation;

WHEREAS, Plaintiffs asserted in paragraph 254 of the Complaint that their claims were timely because (i) they “did not discover, and could not with the exercise of reasonable diligence have discovered until more recently, the true nature of Defendants’ participation in the Stanford Ponzi scheme and the injury suffered by Stanford Financial,” (ii) “Defendants’ wrongful acts were inherently undiscoverable,” and (iii) the “doctrine of equitable tolling” applied;

WHEREAS, on June 23, 2015, the Court issued an Order addressing Defendants’ motions to dismiss, dismissing the Plaintiffs’ claim for aiding, abetting or participation in fraudulent transfers (Count 4), but denying Defendants’ motions to dismiss in all other regards. See Dkt. 79 at 21;

WHEREAS, the Court determined that the Complaint sufficiently alleged that Plaintiffs' claims were not barred by the applicable two-year statutes of limitation because Plaintiffs "raised the discovery rule as a basis for tolling limitations on their claims" and the assertion of the discovery rule was "sufficient to preclude dismissal on limitations at this stage." See Dkt. 79 at 9-10;

WHEREAS, discovery in this action commenced on June 10, 2016;

WHEREAS, Proskauer has served discovery directed to, among other things, Plaintiffs' allegations in paragraph 254 of the Complaint concerning the applicability of the discovery rule;

WHEREAS, Plaintiffs have dismissed the claims against Chadbourne and Sjoblom;

WHEREAS, on April 5, 2017, the Court entered an Order consolidating the claims against P. Mauricio Alvarado in *Ralph Janvey, et al. v. Alvarado, et al.*, Civil Action No. 3:10-CV-2584-N (the "Alvarado Action") with the claims against Proskauer in the above-captioned case. See Dkt. 153;

WHEREAS, Plaintiffs have determined that they no longer wish to pursue the allegations set forth in paragraph 254 of the Complaint, and therefore desire to withdraw the allegations in that paragraph;

WHEREAS, as a result of Plaintiffs' withdrawal of the allegations set forth in paragraph 254 of the Complaint, Plaintiffs likewise wish to dismiss, with prejudice, the claims against Proskauer in the Complaint for negligence (Count 1), aiding, abetting, or participation in fraudulent transfers (Count 4), aiding, abetting or participation in

conversion (Count 5), civil conspiracy (Count 6), and negligent retention/supervision (Count 7);

NOW THEREFORE, PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41, IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel for Plaintiffs and Proskauer that:

1. The allegations set forth in paragraph 254 of the Complaint shall be and hereby are withdrawn with prejudice to Plaintiffs reasserting them against Proskauer in this or in any other action;

2. Plaintiffs voluntarily dismiss all claims against Proskauer asserted in Counts 1, 4, 5, 6, and 7 of the Complaint with prejudice to Plaintiffs reasserting them against Proskauer in this or any other action;

3. This Stipulation and Order of Dismissal pursuant to Rule 41 does not constitute a dismissal or waiver of any claim or defense not specifically addressed herein, including, but not limited to, (i) Plaintiffs' claims against Proskauer in the Complaint for aiding, abetting, or participation in breaches of fiduciary duties (Count 2) and aiding, abetting, or participation in fraudulent scheme (Count 3), which claims are not dismissed and shall continue in this action, and/or (ii) Proskauer's defenses thereto.

This Stipulation and Order of Dismissal also shall not constitute a dismissal or waiver of any claims against any defendants in the Alvarado Action; and

4. Nothing herein shall affect or constitute a dismissal or waiver of any of Plaintiffs' claims or allegations other than the claims and allegations set forth in Counts 1, 4, 5, 6 and 7 and paragraph 254 of the Complaint.

SO ORDERED:

Dated: April ___, 2017

THE HONORABLE DAVID C. GODBEY
United States District Judge

Dated: April 27, 2017

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